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Attorneys for Defendants
HEDMARK VIII, LLC and
WESTLAND FINANCIAL III, LLC

UNITED STATE DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DOUGLAS KEANE.

Plaintiff.

vs.

ATLAS HOSPITALITY GROUP,
HEDMARK VIII, LLC and
WESTLAND FINANCIAL III, LLC and
JUSTIN B. MEYERS.

Defendants.

CASE NO.

NOTICE OF REMOVAL OF
ACTION;
UNDER 28 U.S.C. § 1441(b)
(FEDERAL QUESTION)

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that defendants HEDMARK VIII, LLC and
WESTLAND FINANCIAL III, LLC hereby removes to this Court the state court action
described below.

1. On October 22, 2007 an action was commenced in the Superior Court of
the State of California in and for the City of Santa Rosa, County of Sonoma, entitled
DOUGLAS KEANE, Plaintiff v. ATLAS HOSPITALITY GROUP, HEDMARK VIII,
LLC, WESTLAND FINANCIAL GROUP III, LLC and JUSTIN B. MEYERS
Defendants, as case number SCV-241706 hereto as Exhibit "A."

1
NOTICE OF REMOVAL OF ACTION; UNDER 28 U.S.C. § 1441(b)
(FEDERAL QUESTION)


1 2. The first date upon which defendants received a copy of the said Complaint
2 was November 1, 2007, when defendants were served with a copy of the said Complaint
3 and a Summons from the said state court. A copy of the Summons is attached hereto as
4 Exhibit "B."

5 3. This action is a civil action of which this Court has original jurisdiction
6 under 28 U.S.C. §1331, and is one which may be removed to this Court by defendants
7 pursuant to the provision of 28 U.S.C. §1441(b) in that it arises under the Copyright Act
8 (17 U.S.C. §101 et. seq.) which grants exclusive jurisdiction to federal district courts over
9 civil actions arising under the Copyright Act. 17 U.S.C. §301. Plaintiff's claims under
10 Calif. Civil Code §3344 and common law right-to-privacy claims arise from the alleged
11 publication of purportedly copyrighted materials (attached as Exhibit 1 to the Complaint),
12 which copyrights are owned either by the listed publications or by Cyrus Restaurant.

13 4. All other defendants who have been served with Summons and Complaint
14 have joined in this Notice of Removal, as evidenced by the Joinders of defendants
15 ATLAS HOSPITALITY GROUP, INC, and JUSTIN B. MEYERS, filed concurrently
16 herewith.

17 DATED: *11/30/07*
18

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20 MERRILL, ARNONE & JONES, LLP

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23 ROSS B. JONES,
24 Attorney for Defendants
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1 Christopher J. Keane (SB# 194848)
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 3 San Francisco, CA 94133
 4 Telephone: (415) 398-2777
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 7 Attorney for Plaintiff

8 Brian L. Larsen (SB# 158252)
 9 530 Jackson Street, Second Floor
 10 San Francisco, CA 94133
 11 Telephone: (415) 398-5000
 12 Fax: (415) 398-5080
 13 E-mail: blarsen5000@yahoo.com
 14 Attorney for Plaintiff

ENDORSED
FILED

OCT 22 2007

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA

15 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 16 IN AND FOR THE COUNTY OF SONOMA
 17 (UNLIMITED JURISDICTION)

DOUGLAS KEANE,

Plaintiff,

v.

21 ATLAS HOSPITALITY GROUP,
 22 HEDMARK VIII, L.L.C.,
 23 WESTLAND FINANCIAL III, L.L.C.,
 24 JUSTIN B. MYERS and
 25 DOES 1 to 100.

Defendant(s).

Case No.:

SCY 241706

VERIFIED COMPLAINT FOR
DAMAGES AND DEMAND FOR
JURY TRIAL

Violations of California Civil Code § 3344

Appropriation of Right of Publicity
for Commercial Purposes

BY FAX

COMPLAINT & JURY DEMAND

Complaint and Jury Demand

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EXHIBIT A

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1 NOW COMES Plaintiff, DOUGLAS KEANE, by and through his lawyers, and complains
2 against Defendants, ATLAS HOSPITALITY GROUP, HEDMARK VIII, L.L.C.,
3 WESTLAND FINANCIAL III, L.L.C., JUSTIN B. MYERS and DOES 1-100, inclusive, as
4 follows:
5
6
7

8 **FIRST CAUSE OF ACTION**
9 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

- 10 1. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a
11 California corporation, with its principal place of business located at 2500 Michelson, Suite
12 110, Irvine, California 92612.
- 13 2. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada
14 limited liability company, with its principal place of business located in Sonoma County at
15 the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,
16 California.
- 17 3. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a
18 Nevada limited liability company, with its principal place of business located in Sonoma
19 County at the Les Mars Hotel which it owned and/or operated at 27 North Street,
20 Healdsburg, California.
- 21 4. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,
22 who at all times pertinent to this action worked within the course and scope of his employment for
23 Defendant, Atlas Hospitality Group.
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1 5. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether
2 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time
3 of filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will
4 ask leave of court to amend this Complaint to show their true names or capacities when the same
5 have been ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that
6 each of the DOE Defendants is, in some manner, responsible for the events and happenings herein
7 set forth and proximately caused injury and damages to him, as herein alleged.
8
9

10
11 6. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of
12 Healdsburg, California.
13

14 7. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time, Defendants,
15 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
16 Myers and Does 1-100, authorized, created, published and/or distributed within California,
17 and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page
18 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00,
19 entitled "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred
20 to in this Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les
21 Mars Hotel for \$13,500,000.00")
22

23 8. On page seventeen (17), line four (4), the Defendants, Atlas Hospitality Group, Hedmark
24 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly
25 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or
26 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "Chef Douglas
27 Keane (Rising Star Chef SF Chronicle 2002 and Maitre d' Nick Peyton (the godfather of
28 white tablecloth dining" SF Chronicle 5/2/2003) offer their contemporary luxury cuisine in a
completely flexible prix fixe format of three to five dishes." (See attached Exhibit I, which

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1 is pp. 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the
2 Les Mars Hotel for \$13,500,000.00)

3
4 9. Plaintiff, Douglas Keane, never consented to the use of his name on page seventeen (17),
5 line four (4) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars
6 Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality
7 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does
8 1-100.

9
10 10. The knowing use of Douglas Keane's name on page seventeen (17), line four (4), of the
11 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
12 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
13 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil
14 Code § 3344.

15
16 11. The knowing use of Douglas Keane's name on page seventeen (17), line four (4), of the
17 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
18 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
19 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly
20 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount
21 within the unlimited jurisdiction of the superior court as a result thereof, including but not
22 limited to injury to reputation, humiliation, inconvenience, mental suffering, emotional
23 distress, loss of income, attorney fees and other costs.

24
25 12. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,
26 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with
27 respect to their knowing use of Douglas Keane's name without his consent and without
28 compensating him for the use of his name on page seventeen (17), line four (4), of the

1 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
2 \$13,500,000.00".

3
4 13. There was no public interest in any of the Defendants using Douglas Keane's name and/or
5 photograph in the aforementioned advertisement; rather, it was solely for the Defendants'
6 own financial gain.

7
8 14. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or
9 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,
10 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

11
12 15. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive
13 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C.,
14 Justin B. Myers and Westland Financial III, L.L.C. and Does 1-100.

15
16 16. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
17 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
18 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual
19 damages suffered by him as a result of the aforementioned unauthorized use of his name on
20 page seventeen (17), line four (4), of the "Advertisement to Purchase and/or Solicitation to
21 purchase the Les Mars Hotel for \$13,500,000.00".

22
23 17. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
24 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
25 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of
26 his name on page seventeen (17), line four (4), of the "Advertisement to Purchase and/or
27 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable
28 to the use.

1
2 18. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
3 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
4 Myers and Does 1-100, be found liable to him for attorney fees and costs.

5
6 19. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

7
8 **SECOND CAUSE OF ACTION**
9 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

10 20. Plaintiff incorporates by reference paragraphs (1) through (19) as though set forth herein in
11 full.

12
13 21. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a
14 California corporation, with its principal place of business located at 2500 Michelson, Suite
15 110, Irvine, California 92612.

16
17 22. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada
18 limited liability company, with its principal place of business located in Sonoma County at
19 the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,
20 California.

21
22 23. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a
23 Nevada limited liability company, with its principal place of business located in Sonoma
24 County at the Les Mars Hotel which it owned and/or operated at 27 North Street,
25 Healdsburg, California.

1 24. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,
2 who at all times pertinent to this action worked within the course and scope of his employment for
3 Defendant, Atlas Hospitality Group.
4

5
6 25. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether
7 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time
8 of filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will
9 ask leave of court to amend this Complaint to show their true names or capacities when the same
10 have been ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that
11 each of the DOE Defendants is, in some manner, responsible for the events and happenings herein
12 set forth and proximately caused injury and damages to him, as herein alleged.
13
14

15
16 26. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of
17 Healdsburg, California.
18

19 27. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time, Defendants,
20 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
21 Myers and Does 1-100, authorized, created, published and/or distributed within California,
22 and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page
23 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00,
24 entitled "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred
25 to in this Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les
26 Mars Hotel for \$13,500,000.00")
27

28 28. On page eighteen (18), line five (5), the Defendants, Atlas Hospitality Group, Hedmark
VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly

1 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or
2 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "If you want to
3 find the next superstar chef, look no farther than Douglas Keane, who is proving his mettle
4 each night at Cyrus in Healdsburg." (See attached Exhibit I, which is pp. 1, 3, 4, 17 and 18
5 of the Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
6 \$13,500,000.00)

7
8 29. Plaintiff, Douglas Keane, never consented to the use of his name on page eighteen (18), line
9 five (5) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars
10 Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality
11 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does
12 1-100.

13
14 30. The knowing use of Douglas Keane's name on page eighteen (18), line five (5), of the
15 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
16 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
17 Westland Financial III, L.L.C. and Does 1-100, violates California Civil Code § 3344.

18
19 31. The knowing use of Douglas Keane's name on page eighteen (18), line five (5), of the
20 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
21 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
22 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly
23 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount
24 within the unlimited jurisdiction of the superior court as a result thereof, including but not
25 limited to injury to reputation, humiliation, inconvenience, mental suffering, emotional
26 distress, loss of income, attorney fees and other costs.

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1 32. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,
2 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with
3 respect to their knowing use of Douglas Keane's name without his consent and without
4 compensating him for the use of his name on page eighteen (18), line five (5), of the
5 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
6 \$13,500,000.00".

7
8 33. There was no public interest in any of the Defendants using Douglas Keane's name and/or
9 photograph in the aforementioned advertisement; rather, it was solely for their own financial
10 gain.

11
12 34. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or
13 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,
14 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

15
16 35. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive
17 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C.
18 and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

19
20 36. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
21 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
22 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual
23 damages suffered by him as a result of the aforementioned unauthorized use of his name on
24 page eighteen (18), line five (5), of the "Advertisement to Purchase and/or Solicitation to
25 purchase the Les Mars Hotel for \$13,500,000.00".

26
27 37. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
28 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.

1 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of
2 his name on page eighteen (18), line five (5), of the "Advertisement to Purchase and/or
3 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable
4 to the use.

5
6 38. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
7 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
8 Myers and Does 1-100, be found liable to him for attorney fees and costs.

9
10 39. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

11
12 **THIRD CAUSE OF ACTION**
13 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

14 40. Plaintiff incorporates by reference paragraphs (1) through (39) as though set forth herein in
15 full.

16
17 41. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a
18 California corporation, with its principal place of business located at 2500 Michelson, Suite
19 110, Irvine, California 92612.

20
21 42. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada
22 limited liability company, with its principal place of business located in Sonoma County at
23 the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,
24 California.

25
26 43. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a
27 Nevada limited liability company, with its principal place of business located in Sonoma
28

1 County at the Les Mars Hotel which it owned and/or operated at 27 North Street,
2 Healdsburg, California.

3
4 44. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,
5 who at all times pertinent to this action worked within the course and scope of his employment for
6 Defendant, Atlas Hospitality Group.

7
8
9 45. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether
10 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time
11 of filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will
12 ask leave of court to amend this Complaint to show their true names or capacities when the same
13 have been ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that
14 each of the DOE Defendants is, in some manner, responsible for the events and happenings herein
15 set forth and proximately caused injury and damages to him, as herein alleged.

16
17
18 46. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of
19 Healdsburg, California.

20
21
22 47. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time, Defendants,
23 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
24 Myers and Does 1-100, authorized, created, published and/or distributed within California,
25 and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page
26 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00,
27 entitled "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred
28 to in this Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les
Mars Hotel for \$13,500,000.00")

1
2 48. On page eighteen (18), line ten (10), the Defendants, Atlas Hospitality Group, Hedmark
3 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly
4 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or
5 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "When I
6 reviewed the restaurant a few months after it opened, it was evident that Keane was cooking
7 at a level that put him in an elite pantheon of chefs." (See attached Exhibit 1, which is pp. 1,
8 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the Les
9 Mars Hotel for \$13,500,000.00)

10
11 49. Plaintiff, Douglas Keane, never consented to the use of his name on page eighteen (18), line
12 ten (10) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars
13 Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality
14 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does
15 1-100.

16
17 50. The knowing use of Douglas Keane's name on page eighteen (18), line ten (10), of the
18 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
19 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
20 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil
21 Code § 3344.

22
23 51. The knowing use of Douglas Keane's name on page eighteen (18), line ten (10), of the
24 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
25 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
26 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly
27 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount
28 within the unlimited jurisdiction of the superior court as a result thereof, including but not

1 limited to injury to reputation, humiliation, inconvenience, mental suffering, emotional
2 distress, loss of income, attorney fees and other costs.

3
4 52. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,
5 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with
6 respect to their knowing use of Douglas Keane's name without his consent and without
7 compensating him for the use of his name on page eighteen (18), line ten (10), of the
8 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
9 \$13,500,000.00".

10
11 53. There was no public interest in any of the Defendants using Douglas Keane's name and/or
12 photograph in the aforementioned advertisement; rather, it was solely for their own financial
13 gain.

14
15 54. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or
16 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,
17 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

18
19 55. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive
20 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C.
21 and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

22
23 56. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
24 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
25 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual
26 damages suffered by him as a result of the aforementioned unauthorized use of his name on
27 page eighteen (18), line ten (10), of the "Advertisement to Purchase and/or Solicitation to
28 purchase the Les Mars Hotel for \$13,500,000.00".

1
2 57. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
3 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
4 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of
5 his name on page eighteen (18), line ten (10), of the "Advertisement to Purchase and/or
6 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable
7 to the use.

8
9 58. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
10 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
11 Myers and Does 1-100, be found liable to him for attorney fees and costs.

12
13 59. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

14
15 **FOURTH CAUSE OF ACTION**
16 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

17 60. Plaintiff incorporates by reference paragraphs (1) through (59) as though set forth herein in
18 full.

19
20
21 61. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a
22 California corporation, with its principal place of business located at 2500 Michelson, Suite
23 110, Irvine, California 92612.

24
25 62. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada
26 limited liability company, with its principal place of business located in Sonoma County at
27 the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,
28 California.

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1 63. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a
2 Nevada limited liability company, with its principal place of business located in Sonoma
3 County at the Les Mars Hotel which it owned and/or operated at 27 North Street,
4 Healdsburg, California.

5
6 64. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,
7 who at all times pertinent to this action worked within the course and scope of his employment for
8 Defendant, Atlas Hospitality Group.

9
10
11 65. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether
12 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time
13 of filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will
14 ask leave of court to amend this Complaint to show their true names or capacities when the same
15 have been ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that
16 each of the DOE Defendants is, in some manner, responsible for the events and happenings herein
17 set forth and proximately caused injury and damages to him, as herein alleged.

18
19
20
21 66. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of
22 Healdsburg, California.

23
24 67. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time, Defendants,
25 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
26 Myers and Does 1-100, authorized, created, published and/or distributed within California,
27 and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page
28 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00,
entitled "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred

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1 to in this Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les
2 Mars Hotel for \$13,500,000.00")

3
4 68. On page eighteen (18), line twenty (20), the Defendants, Atlas Hospitality Group, Hedmark
5 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly
6 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or
7 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "[S]urrender
8 yourself to the masterful hands of chef Douglas Keane." (See attached Exhibit 1, which is
9 pp. 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the
10 Les Mars Hotel for \$13,500,000.00)

11
12 69. Plaintiff, Douglas Keane, never consented to the use of his name on page eighteen (18), line
13 twenty (20) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars
14 Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality
15 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does
16 1-100.

17
18 70. The knowing use of Douglas Keane's name on page eighteen (18), line twenty (20), of the
19 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
20 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
21 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil
22 Code § 3344.

23
24 71. The knowing use of Douglas Keane's name on page eighteen (18), line twenty (20), of the
25 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
26 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
27 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly
28 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount

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1 within the unlimited jurisdiction of the superior court as a result thereof, including but not
2 limited to injury to reputation, humiliation, inconvenience, mental suffering, emotional
3 distress, loss of income, attorney fees and other costs.

4
5 72. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,
6 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with
7 respect to their knowing use of Douglas Keane's name without his consent and without
8 compensating him for the use of his name on page eighteen (18), line twenty (20), of the
9 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
10 \$13,500,000.00".

11
12 73. There was no public interest in any of the Defendants using Douglas Keane's name and/or
13 photograph in the aforementioned advertisement; rather, it was solely for their own financial
14 gain.

15
16 74. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or
17 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,
18 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

19
20 75. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive
21 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C.
22 and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

23
24 76. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
25 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
26 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual
27 damages suffered by him as a result of the aforementioned unauthorized use of his name on
28

1 page eighteen (18), line twenty (20), of the "Advertisement to Purchase and/or Solicitation
2 to purchase the Les Mars Hotel for \$13,500,000.00".

3
4 77. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
5 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
6 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of
7 his name on page eighteen (18), line twenty (20), of the "Advertisement to Purchase and/or
8 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable
9 to the usc.

10
11 78. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
12 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
13 Myers and Does 1-100, be found liable to him for attorney fees and costs.

14
15 79. Plaintiff, Douglas Kcane, requests relief as set forth hereafter.

16
17 **FIFTH CAUSE OF ACTION**
18 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

19 80. Plaintiff incorporates by reference paragraphs (1) through (79) as though set forth herein in
20 full.

21
22 81. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a
23 California corporation, with its principal place of business located at 2500 Michelson, Suite
24 110, Irvine, California 92612.

25
26 82. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada
27 limited liability company, with its principal place of business located in Sonoma County at
28

1 the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,
2 California.

3
4 83. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a
5 Nevada limited liability company, with its principal place of business located in Sonoma
6 County at the Les Mars Hotel which it owned and/or operated at 27 North Street,
7 Healdsburg, California.

8
9 84. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,
10 who at all times pertinent to this action worked within the course and scope of his employment for
11 Defendant, Atlas Hospitality Group.

12
13
14 85. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether
15 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time
16 of filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will
17 ask leave of court to amend this Complaint to show their true names or capacities when the same
18 have been ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that
19 each of the DOE Defendants is, in some manner, responsible for the events and happenings herein
20 set forth and proximately caused injury and damages to him, as herein alleged.

21
22
23 86. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of
24 Healdsburg, California.

25
26 87. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time, Defendants,
27 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
28 Myers and Does 1-100, authorized, created, published and/or distributed within California,

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1 and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page
2 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00,
3 entitled "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred
4 to in this Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les
5 Mars Hotel for \$13,500,000.00")

6
7 88. On page eighteen (18), line twenty-two (22), the Defendants, Atlas Hospitality Group,
8 Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100,
9 knowingly used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase
10 and/or Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "With
11 that introduction to Douglas Keane's seriously decadent cooking, you begin to understand
12 why Healdsburg has become such a wine-country destination." (See attached Exhibit 1,
13 which is pp. 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to
14 purchase the Les Mars Hotel for \$13,500,000.00)

15
16 89. Plaintiff, Douglas Keane, never consented to the use of his name on page eighteen (18), line
17 twenty-two (22) of the "Advertisement to Purchase and/or Solicitation to purchase the Les
18 Mars Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality
19 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does
20 1-100.

21
22 90. The knowing use of Douglas Keane's name on page eighteen (18), twenty-two (22), of the
23 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
24 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
25 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil
26 Code § 3344.

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1 91. The knowing use of Douglas Keane's name on page eighteen (18), twenty-two (22), of the
2 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
3 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
4 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly
5 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount
6 within the unlimited jurisdiction of the superior court as a result thereof, including but not
7 limited to injury to reputation, humiliation, inconvenience, mental suffering, emotional
8 distress, loss of income, attorney fees and other costs.

9
10 92. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,
11 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with
12 respect to their knowing use of Douglas Keane's name without his consent and without
13 compensating him for the use of his name on page eighteen (18), twenty-two (22), of the
14 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
15 \$13,500,000.00".

16
17 93. There was no public interest in any of the Defendants using Douglas Keane's name and/or
18 photograph in the aforementioned advertisement; rather, it was solely for their own financial
19 gain.

20
21 94. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or
22 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,
23 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

24
25 95. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive
26 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C.
27 and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.
28

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1 96. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
2 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
3 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual
4 damages suffered by him as a result of the aforementioned unauthorized use of his name on
5 page eighteen (18), line twenty-two (22), of the "Advertisement to Purchase and/or
6 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00".

7
8 97. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
9 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
10 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of
11 his name on page eighteen (18), line twenty-two (22), of the "Advertisement to Purchase
12 and/or Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are
13 attributable to the use.

14
15 98. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
16 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
17 Myers and Does 1-100, be found liable to him for attorney fees and costs.

18
19 99. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

20
21 **SIXTH CAUSE OF ACTION**
22 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

23 100. Plaintiff incorporates by reference paragraphs (1) through (99) as though set forth herein
24 in full.

25
26 101. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a
27 California corporation, with its principal place of business located at 2500 Michelson, Suite
28 110, Irvine, California 92612.

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1
2 102. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada
3 limited liability company, with its principal place of business located in Sonoma County at the
4 Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg, California.

5
6 103. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a
7 Nevada limited liability company, with its principal place of business located in Sonoma
8 County at the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,
9 California.

10
11 104. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,
12 who at all times pertinent to this action worked within the course and scope of his employment for
13 Defendant, Atlas Hospitality Group.

14
15
16 105. The true names and capacities of the Defendants, DOES I through 100, inclusive, whether
17 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time of
18 filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will ask leave
19 of court to amend this Complaint to show their true names or capacities when the same have been
20 ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that each of the
21 DOE Defendants is, in some manner, responsible for the events and happenings herein set forth and
22 proximately caused injury and damages to him, as herein alleged.

23
24
25
26 106. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of
27 Healdsburg, California.
28

1 107. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time,
2 Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C.,
3 Justin B. Myers and Does 1-100, authorized, created, published and/or distributed within
4 California, and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page
5 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00, entitled
6 "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred to in this
7 Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les Mars Hotel
8 for \$13,500,000.00")

9
10 108. On page eighteen (18), line twenty-nine (29), the Defendants, Atlas Hospitality Group,
11 Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100,
12 knowingly used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or
13 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "Keane proves that
14 great cooking is foremost tasty cooking, not just wacky experiments at the guests' expense."
15 (See attached Exhibit 1, which is pp. 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or
16 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00)

17
18 109. Plaintiff, Douglas Keane, never consented to the use of his name on page eighteen (18),
19 line twenty-nine (29) of the "Advertisement to Purchase and/or Solicitation to purchase the Les
20 Mars Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality
21 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-
22 100.

23
24 110. The knowing use of Douglas Keane's name on page eighteen (18), twenty-nine (29), of the
25 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
26 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
27 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil Code
28 § 3344.

1
2 111. The knowing use of Douglas Keane's name on page eighteen (18), twenty-nine (29), of the
3 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
4 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
5 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly
6 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount within the
7 unlimited jurisdiction of the superior court as a result thereof, including but not limited to injury
8 to reputation, humiliation, inconvenience, mental suffering, emotional distress, loss of income,
9 attorney fees and other costs.

10
11 112. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,
12 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with
13 respect to their knowing use of Douglas Keane's name without his consent and without
14 compensating him for the use of his name on page eighteen (18), twenty-nine (29), of the
15 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
16 \$13,500,000.00".

17
18 113. There was no public interest in any of the Defendants using Douglas Keane's name and/or
19 photograph in the aforementioned advertisement; rather, it was solely for their own financial
20 gain..

21
22 114. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or
23 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,
24 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

25
26 115. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive
27 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
28 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

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1
2 116. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
3 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
4 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual damages
5 suffered by him as a result of the aforementioned unauthorized use of his name on page
6 eighteen (18), line twenty-nine (29), of the "Advertisement to Purchase and/or Solicitation to
7 purchase the Les Mars Hotel for \$13,500,000.00".

8
9 117. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
10 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
11 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of his
12 name on page eighteen (18), line twenty-nine (29), of the "Advertisement to Purchase and/or
13 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable to
14 the use.

15
16 118. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
17 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
18 Myers and Does 1-100, be found liable to him for attorney fees and costs.

19
20 119. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

21
22 **SEVENTH CAUSE OF ACTION**
23 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

24 120. Plaintiff incorporates by reference paragraphs (1) through (119) as though set forth herein
25 in full.

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1 121. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a
2 California corporation, with its principal place of business located at 2500 Michelson, Suite
3 110, Irvine, California 92612.

4
5 122. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada
6 limited liability company, with its principal place of business located in Sonoma County at the
7 Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg, California.

8
9 123. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a
10 Nevada limited liability company, with its principal place of business located in Sonoma
11 County at the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,
12 California.

13
14 124. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,
15 who at all times pertinent to this action worked within the course and scope of his employment for
16 Defendant, Atlas Hospitality Group.

17
18
19 125. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether
20 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time of
21 filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will ask leave
22 of court to amend this Complaint to show their true names or capacities when the same have been
23 ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that each of the
24 DOE Defendants is, in some manner, responsible for the events and happenings herein set forth and
25 proximately caused injury and damages to him, as herein alleged.
26
27
28

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1 120. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of
2 Healdsburg, California.

3
4 121. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time,
5 Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C.,
6 Justin B. Myers and Does 1-100, authorized, created, published and/or distributed within
7 California, and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page
8 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00, entitled
9 "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred to in this
10 Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les Mars Hotel
11 for \$13,500,000.00")

12
13 122. On page eighteen (18), line thirty (30), the Defendants, Atlas Hospitality Group, Hedmark
14 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly
15 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or
16 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "A great cook
17 knows the mysterious chemistry of food but, like Keane, brings it all to bear in an effort to
18 please." (See attached Exhibit 1, which is pp. 1, 3, 4, 17 and 18 of the Advertisement to
19 Purchase and/or Solicitation to purchase the Les Mars Hotel for \$13,500,000.00)

20
21 123. Plaintiff, Douglas Keane, never consented to the use of his name on page eighteen (18),
22 line thirty (30) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars
23 Hotel for \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality Group,
24 Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

25
26 124. The knowing use of Douglas Keane's name on page eighteen (18), thirty (30), of the
27 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
28 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and

1 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil Code
2 § 3344.

3
4 125. The knowing use of Douglas Keane's name on page eighteen (18), thirty (30), of the
5 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
6 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
7 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly
8 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount within the
9 unlimited jurisdiction of the superior court as a result thereof, including but not limited to injury
10 to reputation, humiliation, inconvenience, mental suffering, emotional distress, loss of income,
11 attorney fees and other costs.

12
13 126. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,
14 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with
15 respect to their knowing use of Douglas Keane's name without his consent and without
16 compensating him for the use of his name on page eighteen (18), thirty (30), of the
17 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
18 \$13,500,000.00".

19
20 127. There was no public interest in any of the Defendants using Douglas Keane's name and/or
21 photograph in the aforementioned advertisement; rather, it was solely for their own financial
22 gain.

23
24 128. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or
25 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,
26 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

1 129. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive
2 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
3 Westland Financial III, L.L.C., Justin B. Myers and Docs 1-100.

4
5 130. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
6 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
7 Myers and Docs 1-100, be found liable to him for the greater of \$750.00 or the actual damages
8 suffered by him as a result of the aforementioned unauthorized use of his name on page
9 eighteen (18), line thirty (30), of the "Advertisement to Purchase and/or Solicitation to purchase
10 the Les Mars Hotel for \$13,500,000.00".

11
12 131. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
13 Atlas Hospitality Group, Hedmark VII, L.L.C. and Westland Financial III, L.L.C., Justin B.
14 Myers and Docs 1-100, be found liable to him for any profits from the unauthorized use of his
15 name on page eighteen (18), line thirty (30), of the "Advertisement to Purchase and/or
16 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable to
17 the use.

18
19 132. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
20 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
21 Myers and Docs 1-100, be found liable to him for attorney fees and costs.

22
23 133. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

24
25 **EIGHTH CAUSE OF ACTION**
26 **(VIOLATION OF CALIFORNIA CIVIL CODE § 3344)**

27 134. Plaintiff incorporates by reference paragraphs (1) through (133) as though set forth herein
28 in full.

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1
2 135. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a
3 California corporation, with its principal place of business located at 2500 Michelson, Suite
4 110, Irvine, California 92612.

5
6 136. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada
7 limited liability company, with its principal place of business located in Sonoma County at the
8 Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg, California.

9
10 137. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a
11 Nevada limited liability company, with its principal place of business located in Sonoma
12 County at the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,
13 California.

14
15 138. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,
16 who at all times pertinent to this action worked within the course and scope of his employment for
17 Defendant, Atlas Hospitality Group.

18
19
20 139. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether
21 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time of
22 filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will ask leave
23 of court to amend this Complaint to show their true names or capacities when the same have been
24 ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that each of the
25 DOE Defendants is, in some manner, responsible for the events and happenings herein set forth and
26 proximately caused injury and damages to him, as herein alleged.
27
28

1 140. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of
2 Healdsburg, California.

3
4 141. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time,
5 Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C.,
6 Justin B. Myers and Does 1-100, authorized, created, published and/or distributed within
7 California, and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page
8 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00, entitled
9 "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred to in this
10 Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les Mars Hotel
11 for \$13,500,000.00")

12
13 142. On page eighteen (18), the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
14 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly used the
15 photograph of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or Solicitation
16 to purchase the Les Mars Hotel for \$13,500,000.00". (See attached Exhibit 1, which is pp. 1, 3,
17 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the Les Mars
18 Hotel for \$13,500,000.00)

19
20 143. Plaintiff, Douglas Keane, never consented to the use of his photograph on page eighteen
21 (18) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
22 \$13,500,000.00", by anyone, including by the Defendants, Atlas Hospitality Group, Hedmark
23 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

24
25 144. The knowing use of Douglas Keane's photograph on page eighteen (18) of the
26 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
27 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
28

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1 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, violates California Civil Code
2 § 3344.

3
4 145. The knowing use of Douglas Keane's photograph on page eighteen (18) of the
5 "Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
6 \$13,500,000.00", by the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
7 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, proximately and directly
8 caused Plaintiff, Douglas Keane, to sustain general and special damages in an amount within the
9 unlimited jurisdiction of the superior court as a result thereof, including but not limited to injury
10 to reputation, humiliation, inconvenience, mental suffering, emotional distress, loss of income,
11 attorney fees and other costs.

12
13 146. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,
14 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with
15 respect to their knowing use of Douglas Keane's photograph without his consent and without
16 compensating him for the use of his photograph on page eighteen (18), of the "Advertisement to
17 Purchase and/or Solicitation to purchase the Les Mars Hotel for \$13,500,000.00",

18
19 147. There was no public interest in any of the Defendants using Douglas Keane's name and/or
20 photograph in the aforementioned advertisement; rather, it was solely for their own financial
21 gain.

22
23 148. Pursuant to California Civil Code § 3344(a), Plaintiff, requests that exemplary and/or
24 punitive damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII,
25 L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

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1 149. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive
2 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
3 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

4
5 150. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
6 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
7 Myers and Does 1-100, be found liable to him for the greater of \$750.00 or the actual damages
8 suffered by him as a result of the aforementioned unauthorized use of his photograph on page
9 eighteen (18) of the "Advertisement to Purchase and/or Solicitation to purchase the Les Mars
10 Hotel for \$13,500,000.00".

11
12 151. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
13 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
14 Myers and Does 1-100, be found liable to him for any profits from the unauthorized use of his
15 photograph on page eighteen (18), of the "Advertisement to Purchase and/or Solicitation to
16 purchase the Les Mars Hotel for \$13,500,000.00" and which are attributable to the use.

17
18 152. Pursuant to California Civil Code § 3344(a), Plaintiff further requests that the Defendants,
19 Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B.
20 Myers and Does 1-100, be found liable to him for attorney fees and costs.

21
22 153. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

23
24 **NINTH CAUSE OF ACTION**
25 **(APPROPRIATION OF RIGHT OF PUBLICITY FOR COMMERCIAL PURPOSES)**

26 154. Plaintiff incorporates by reference paragraphs (1) through (153) as though set forth herein
27 in full.
28

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1 155. Defendant, Atlas Hospitality Group, is and was at all times pertinent to this action a
2 California corporation, with its principal place of business located at 2500 Michelson, Suite
3 110, Irvine, California 92612.

4
5 156. Defendant, Hedmark VIII, L.L.C., is and was at all times pertinent to this action a Nevada
6 limited liability company, with its principal place of business located in Sonoma County at the
7 Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg, California.

8
9 157. Defendant, Westland Financial III, L.L.C. is and was at all times pertinent to this action a
10 Nevada limited liability company, with its principal place of business located in Sonoma
11 County at the Les Mars Hotel which it owned and/or operated at 27 North Street, Healdsburg,
12 California.

13
14 158. Defendant, Justin B. Myers, is and was at all times pertinent to this action a California resident,
15 who at all times pertinent to this action worked within the course and scope of his employment for
16 Defendant, Atlas Hospitality Group.

17
18 159. The true names and capacities of the Defendants, DOES 1 through 100, inclusive, whether
19 individual, corporate, associate or otherwise, are unknown to Plaintiff, Douglas Keane, at the time of
20 filing this Complaint and he, therefore, sues said Defendants by such fictitious names and will ask leave
21 of court to amend this Complaint to show their true names or capacities when the same have been
22 ascertained. Plaintiff, Douglas Keane, is informed and believes, and thereon alleges, that each of the
23 DOE Defendants is, in some manner, responsible for the events and happenings herein set forth and
24 proximately caused injury and damages to him, as herein alleged.
25
26
27
28

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BRIAN

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1 160. Plaintiff, Douglas Keane, is and was at all times pertinent to this action a resident of
2 Healdsburg, California.

3
4 161. On May 15, 2007, and perhaps on other dates unknown to Plaintiff at this time,
5 Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C.,
6 Justin B. Myers and Does 1-100, authorized, created, published and/or distributed within
7 California, and perhaps other places unknown to Plaintiff at this time, a thirty-two (32) page
8 advertisement and/or solicitation to purchase the Les Mars Hotel for \$13,500,000.00, entitled
9 "Confidential Offering Memorandum for the Les Mars Hotel" (hereinafter referred to in this
10 Complaint as "Advertisement to Purchase and/or Solicitation to Purchase the Les Mars Hotel
11 for \$13,500,000.00")

12
13 161. On page seventeen (17), line four (4), the Defendants, Atlas Hospitality Group, Hedmark
14 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly
15 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or
16 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "Chef Douglas
17 Keane (Rising Star Chef SF Chronicle 2002 and Maitre d' Nick Peyton (the godfather of white
18 tablecloth dining" SF Chronicle 5/2/2003) offer their contemporary luxury cuisine in a
19 completely flexible prix fixe format of three to five dishes." (See attached Exhibit 1, which is
20 pp. 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the Les
21 Mars Hotel for \$13,500,000.00)

22
23 162. On page eighteen (18), line five (5), the Defendants, Atlas Hospitality Group, Hedmark
24 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly
25 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or
26 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "If you want to
27 find the next superstar chef, look no farther than Douglas Keane, who is proving his mettle each
28 night at Cyrus in Healdsburg." (See attached Exhibit 1, which is pp. 1, 3, 4, 17 and 18 of the

1 Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
2 \$13,500,000.00)

3
4 163. On page eighteen (18), line ten (10), the Defendants, Atlas Hospitality Group, Hedmark
5 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100, knowingly
6 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or
7 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "When I reviewed
8 the restaurant a few months after it opened, it was evident that Keane was cooking at a level that
9 put him in an elite pantheon of chefs." (See attached Exhibit 1, which is pp. 1, 3, 4, 17 and 18 of
10 the Advertisement to Purchase and/or Solicitation to purchase the Les Mars Hotel for
11 \$13,500,000.00)

12
13 164. On page eighteen (18), line twenty (20), the Defendants, Atlas Hospitality Group,
14 Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100,
15 knowingly used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or
16 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "[S]urrender
17 yourself to the masterful hands of chef Douglas Keane." (See attached Exhibit 1, which is pp. 1,
18 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the Les Mars
19 Hotel for \$13,500,000.00)

20
21 165. On page eighteen (18), line twenty-two (22), the Defendants, Atlas Hospitality Group,
22 Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-100,
23 knowingly used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or
24 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "With that
25 introduction to Douglas Keane's seriously decadent cooking, you begin to understand why
26 Healdsburg has become such a wine-country destination." (See attached Exhibit 1, which is pp.
27 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the Les Mars
28 Hotel for \$13,500,000.00)

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1
2 166. On page eighteen (18), line twenty-nine (29), the Defendants, Atlas Hospitality Group,
3 Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Docs 1-100,
4 knowingly used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or
5 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "Keane proves that
6 great cooking is foremost tasty cooking, not just wacky experiments at the guests' expense."
7 (See attached Exhibit 1, which is pp. 1, 3, 4, 17 and 18 of the Advertisement to Purchase and/or
8 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00)

9
10 167. On page eighteen (18), line thirty (30), the Defendants, Atlas Hospitality Group, Hedmark
11 VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Docs 1-100, knowingly
12 used the name of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or
13 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00" as follows: "A great cook
14 knows the mysterious chemistry of food but, like Keane, brings it all to bear in an effort to
15 please." (See attached Exhibit 1, which is pp. 1, 3, 4, 17 and 18 of the Advertisement to
16 Purchase and/or Solicitation to purchase the Les Mars Hotel for \$13,500,000.00)

17
18 168. On page eighteen (18), the Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
19 Westland Financial III, L.L.C., Justin B. Myers and Docs 1-100, knowingly used the
20 photograph of Plaintiff, Douglas Keane, in the "Advertisement to Purchase and/or Solicitation
21 to purchase the Les Mars Hotel for \$13,500,000.00". (See attached Exhibit 1, which is pp. 1, 3,
22 4, 17 and 18 of the Advertisement to Purchase and/or Solicitation to purchase the Les Mars
23 Hotel for \$13,500,000.00)

24
25 169. These aforementioned uses of Douglas Keane's name, image, photograph, identity and
26 likeness constitute an appropriation of the same.
27
28

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1 170. Plaintiff, Douglas Keane, was never compensated for the aforementioned appropriation of
2 Plaintiff's name, image, photograph, identity and likeness by the Defendants.

3
4 171. Plaintiff, Douglas Keane, never consented to the aforementioned appropriation and use of
5 his identity, name or photograph on any page of the "Advertisement to Purchase and/or
6 Solicitation to purchase the Les Mars Hotel for \$13,500,000.00", by anyone, including by the
7 Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C.,
8 Justin B. Myers and Does 1-100.

9
10 172. The aforementioned appropriation of Douglas Keane's name, image, photograph, identity
11 and likeness was to the advantage, commercially or otherwise, of Defendants, Atlas Hospitality
12 Group, Hedmark VIII, L.L.C. and Westland Financial III, L.L.C., Justin B. Myers and Does 1-
13 100.

14
15 173. The aforementioned appropriation of Douglas Keane's name, image, photograph, identity
16 by Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,
17 L.L.C., Justin B. Myers and Does 1-100, proximately caused Douglas Keane to sustain general
18 and special damages in an amount within the unlimited jurisdiction of the superior court as a
19 result thereof, including but not limited to injury to reputation, humiliation, inconvenience,
20 mental suffering, emotional distress, loss of income, attorney fees and other costs.

21
22 174. Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and Westland Financial III,
23 L.L.C., Justin B. Myers and Does 1-100, acted with malice, oppression and/or fraud with
24 respect to their knowing use of Douglas Keane's name, image, photograph, identity and likeness
25 without his consent and without compensating him for the use of his name, image, photograph,
26 identity and likeness in the "Advertisement to Purchase and/or Solicitation to purchase the Les
27 Mars Hotel for \$13,500,000.00".

28

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1 175. There was no public interest in any of the Defendants using Douglas Keane's name and/or
2 photograph in the aforementioned advertisement; rather, it was solely for their own financial
3 gain.

4
5 176. Pursuant to California Civil Code § 3294, Plaintiff, requests that exemplary and/or punitive
6 damages be assessed against Defendants, Atlas Hospitality Group, Hedmark VIII, L.L.C. and
7 Westland Financial III, L.L.C., Justin B. Myers and Does 1-100.

8
9 177. Plaintiff, Douglas Keane, requests relief as set forth hereafter.

10
11 **FIRST CAUSE OF ACTION**
12

- 13 A. General damages in a sum according to proof.
14 B. Special damages in a sum according to proof.
15 C. Attorney fees and costs in a sum according to proof.
16 D. Punitive and/or exemplary damages according to proof.
17 E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and
18 F. Costs of suit and, for such other and further relief as the court deems proper.
19

20 **SECOND CAUSE OF ACTION**
21

- 22 A. General damages in a sum according to proof.
23 B. Special damages in a sum according to proof.
24 C. Attorney fees and costs in a sum according to proof.
25 D. Punitive and/or exemplary damages according to proof.
26 E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and
27 F. Costs of suit and, for such other and further relief as the court deems proper.
28

1 THIRD CAUSE OF ACTION

- 2
- 3 A. General damages in a sum according to proof.
- 4 B. Special damages in a sum according to proof.
- 5 C. Attorney fees and costs in a sum according to proof.
- 6 D. Punitive and/or exemplary damages according to proof.
- 7 E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and
- 8 F. Costs of suit and, for such other and further relief as the court deems proper.
- 9

10 FOURTH CAUSE OF ACTION

- 11
- 12 A. General damages in a sum according to proof.
- 13 B. Special damages in a sum according to proof.
- 14 C. Attorney fees and costs in a sum according to proof.
- 15 D. Punitive and/or exemplary damages according to proof.
- 16 E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and
- 17 F. Costs of suit and, for such other and further relief as the court deems proper.
- 18

19 FIFTH CAUSE OF ACTION

- 20
- 21 A. General damages in a sum according to proof.
- 22 B. Special damages in a sum according to proof.
- 23 C. Attorney fees and costs in a sum according to proof.
- 24 D. Punitive and/or exemplary damages according to proof.
- 25 E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and
- 26 F. Costs of suit and, for such other and further relief as the court deems proper.
- 27
- 28

1 SIXTH CAUSE OF ACTION

- 2
- 3 A. General damages in a sum according to proof.
- 4 B. Special damages in a sum according to proof.
- 5 C. Attorney fees and costs in a sum according to proof.
- 6 D. Punitive and/or exemplary damages according to proof.
- 7 E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and
- 8 F. Costs of suit and, for such other and further relief as the court deems proper.
- 9

10 SEVENTH CAUSE OF ACTION

- 11
- 12 A. General damages in a sum according to proof.
- 13 B. Special damages in a sum according to proof.
- 14 C. Attorney fees and costs in a sum according to proof.
- 15 D. Punitive and/or exemplary damages according to proof.
- 16 E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and
- 17 F. Costs of suit and, for such other and further relief as the court deems proper.
- 18

19 EIGHTH CAUSE OF ACTION

- 20
- 21 A. General damages in a sum according to proof.
- 22 B. Special damages in a sum according to proof.
- 23 C. Attorney fees and costs in a sum according to proof.
- 24 D. Punitive and/or exemplary damages according to proof.
- 25 E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and
- 26 F. Costs of suit and, for such other and further relief as the court deems proper.
- 27
- 28

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NINTH CAUSE OF ACTION

A. General damages in a sum according to proof.

B. Special damages in a sum according to proof.

C. Attorney fees and costs in a sum according to proof.

D. Punitive and/or exemplary damages according to proof.

E. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and

F. Costs of suit and, for such other and further relief as the court deems proper.

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1
2 Dated: 10-19-2007By: 
Attorney for Plaintiff3
4 Dated: 10/19/07By: 
Attorney for Plaintiff5
6
7 **VERIFICATION BY PLAINTIFF**8
9 I am a party to this action, and I have read the foregoing Complaint and know its contents. The
10 matters stated in the Complaint are true based on my own knowledge, except as to those matters
11 stated on information and belief, and as to those matters I believe them to be true. I declare
12 under penalty of perjury under the laws of the State of California that the foregoing is true and
13 correct. Executed on October 16, 2007, at Healdsburg, California.14
15 By: 
16 Plaintiff
17
18
19
20
21
22
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24
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EXHIBIT 1

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BRIAN

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Confidential Offering Memorandum
Les. Hoss
HOLT

Exclusively Listed By:

Atlas Hospitality Group

2500 Michelson, Suite 110

Irvine, CA 92612

Telephone: (949) 622-3400

Facsimile: (949) 622-3410

Email: info@atlashospitality.comWebsite: www.atlashospitality.com
Atlas Hospitality Group

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BRIAN

023/028

Les Mars Hotel
Healdsburg, California

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This information has been secured from sources we believe to be reliable, but we make no representations or warranties, expressed or implied, as to the accuracy of the information. References to square footage or age are approximate. Buyer must verify the information and bears all risk for any inaccuracies.

Atlas Hospitality Group

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Les Mars Hotel
Healdsburg, California

Executive Summary

Offering

Atlas Hospitality Group has been exclusively retained by Les Mars Hotel (Owner), to offer for sale the Owner's fee-simple interest in Les Mars Hotel (Property), a 16-room luxury boutique hotel with leased restaurant space in Healdsburg, California.

Property

Reminiscent of a classic 18th century French chateau, Les Mars Hotel is a boutique hotel offering 16 guestrooms, individually designed and furnished with European 18th and 19th century antiques and hand crafted reproductions. The hotel's furnishings alone have been appraised for over \$3.7 million. The rooms feature four poster canopy beds, luxurious linens and fireplaces. The Italian marble bathrooms feature walk-in showers and hydrotherapy airjet soaking tubs. In the warmer months, guests can lounge by the pool and imported French fountain

Location

Les Mars Hotel is located in historic Healdsburg, California, the heart of three outstanding Sonoma County appellations: Dry Creek, Alexander and the Russian River Valleys. *The New York Times* calls Healdsburg "a destination for all things culinary." Just an hour from San Francisco, Healdsburg mixes the best qualities of turn-of-the century America with the ambiance of a European countryside. Les Mars Hotel, just a block from Healdsburg's central plaza, enjoys proximity to almost 100 wineries and some of Northern California's premier dining, fine galleries, chic boutique shopping and outdoor recreational activities.

| | |
|--------|--------------|
| Price: | \$13,500,000 |
|--------|--------------|

Contact

Investors seeking additional information regarding the sale of this asset should contact:



ATLASHOSPITALITY

Atlas
HOSPITALITY GROUP

2500 Michelson, Suite 110 Irvine, CA 92612
Telephone: (949) 622-3400 Facsimile: (949) 622-3410
Email: info@atlashospitalitygroup.com Website: www.atlashospitality.com

Atlas Hospitality Group

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BRIAN

025/026

Les Mars Hotel Healdsburg, California

CYRUS

Les Mars Hotel is the home of Cyrus, the second-highest Zagat-rated restaurant in Sonoma and Napa counties, behind only Thomas Keller's renowned French Laundry.

Chef Douglas Keane (Rising Star Chef SF Chronicle 2002) and Maitre d' Nick Payton ("the god father of white tablecloth dining" SF Chronicle 5/2/2003) offer their contemporary luxury cuisine in a completely flexible prix fixe format of three to five dishes. Sommelier Jim Rollston has assembled an extensive list of world class wines with a special focus on Sonoma appellations. The arched and vaulted dining room welcomes guests to elegant tables set with fine linens, crystal, china and silver. Guests are greeted warmly as they enter the bar while a myriad of special touches await them at the table. Warm canapés arrive to be enjoyed with a cocktail or glass of bubbly served tableside from the champagne and caviar cart. An amuse bouche is served as an extra small course to begin the meal. An extensive cheese tray adds to the temptations that await diners. Mignardises (chocolates, candied fruits and petits fours) provide a celebratory ending and a small box of bon bons is presented as a fond farewell.



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Les Man Hotel Healdsburg, California

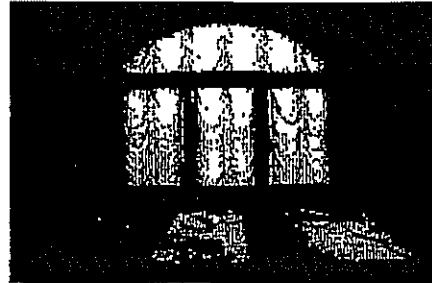
Accolades for Cyrus:

★★★★ *San Francisco Chronicle*
October 18, 2006

"If you want to find the next superstar chef, look no further than Douglas Keane, who is proving his mettle each night at Cyrus in Healdsburg. Since it opened in March 2005 the restaurant has become the premier destination in Sonoma County, with a cachet that may someday rival the French Laundry.

When I reviewed the restaurant a few months after it opened, it was evident that Keane was cooking at a level that put him in an elite pantheon of chefs. A return visit last week to try the Chef's Tasting menu made it clear that although he's still young -- just 35 -- he's no longer a chef to watch but rather one to emulate.

When you add the other elements that make up the dining experience -- impeccable service coordinated by co-owner Nick Peyton, and refined, comfortable ambience -- it's clear that Cyrus has become a four-star destination."



"A wonderful experience awaits you at Cyrus...."

"[S]urrender yourself to the masterful hands of chef Douglas Keane..."



"With that introduction to Douglas Keane's seriously decadent cooking, you begin to understand why Healdsburg has become such a wine-country destination."

FOOD & WINE Wine Country's Best New Restaurant
April 2005

"The food is spectacular, but what makes Cyrus remarkable is the entire experience.."

Esquire Chef of the Year
2005

"Keane proves that great cooking is foremost tasty cooking, not just wacky experiments at the guests' expense. A great cook knows the mysterious chemistry of food but, like Keane, brings it all to bear in an effort to please."

THE WALL STREET JOURNAL
April 28-29, 2007

"For at least a decade, the California wine-country scene could be described as Thomas Keller's French Laundry and everything else. Now Cyrus is closing that gap..."

Atlas Hospitality Group

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|-----------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address) | | FOR COURT USE ONLY |
| TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): | | |
| FAX NO. (Optional): | | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA 600 ADMINISTRATION DRIVE, ROOM 107-J SANTA ROSA, CALIFORNIA 95403-2878 | | |
| PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: | | |
| ADR INFORMATION SHEET [Sonoma County Superior Court Rules, Rule 18] | | CASE NUMBER: |
| (Check one): <input type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) | | <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less) |
| | | Date: Time: Location: Assigned Judge: |

NOTICE TO ALL PARTIES AND THEIR ATTORNEYS

The policy of the Sonoma County Superior Court is:

"The formal litigation of legal claims and disputes is expensive and time consuming. The overall results achieved by some or all of the parties are often unsatisfactory. There are many modern alternatives to formal court litigation which are less expensive, less time consuming, and more beneficial to the parties. It is therefore the firm policy and goal of this court to encourage the parties in all civil cases to explore and pursue private dispute resolution alternatives at the earliest possible date." (Local Rule 16.1.)

Although most (90-98%) cases do settle, many settlements come only after a considerable amount of time, money, and resources have been expended. Such expenditures, as well as the adversarial nature of litigation, can be a disincentive to settlement. The Sonoma County Superior Court encourages the use of Alternative Dispute Resolution (ADR) as early as possible after the parties become aware of a dispute.

Most ADR processes are voluntary and are paid for by the parties themselves, but ADR has proved in many cases to be faster, cheaper, and more effective than traditional litigation.

ADVANTAGES OF ADR:

The filing of your complaint or answer may be just the beginning of the costs that you will incur during the course of your lawsuit. Lawsuits can be extremely costly. By utilizing ADR methods early in the course of your case, you may significantly reduce these costs by either resolving the case before expensive discovery and trial proceedings are commenced or by narrowing the scope of your discovery by identifying disputed and undisputed factual and legal issues.

ADR can be a fast, economical, efficient, and effective way to resolve civil cases, and most litigants report satisfaction with the process. ADR procedures can be scheduled at your convenience and can be completed in a fraction of the time required for traditional litigation. The cost of ADR will depend on the procedure and the provider you select, and the cost is typically less than litigation.

Most ADR processes are confidential but can result in enforceable agreements. Many ADR processes will give you an opportunity to test the strengths and weaknesses of your case without adverse impact in the event of a trial. Depending upon the method of ADR you select, it may be the last chance for you to control the outcome of your dispute before you place the decision in the hands of a judge or jury.

METHODS OF ADR:

A. MEDIATION: Mediation is one of the most frequently used methods of ADR because it is informal, quick, convenient and confidential. In this process the parties select a neutral mediator who facilitates the identification of issues and areas of agreement and assists in finding a resolution or settlement of the dispute. Since mediation requires the agreement of the parties to resolve the matter, control of the proceedings and a determination of the settlement terms remains completely in the parties' hands. The mediator remains neutral and assists the parties in arriving at terms that are mutually agreeable.

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| DEFENDANT/RESPONDENT: | |

B. ARBITRATION: The parties jointly employ a neutral third party or a panel of neutrals to listen to both sides and render a decision. The parties are free to make the arbitrator's decision binding or non-binding. When non-binding, the arbitrator's decision serves as guide or influence upon the parties to bring them closer to settlement. If it is binding, the decision of the arbitrator will be final and generally avoids any further proceedings in the case. Non-binding judicial arbitration may be ordered in certain cases before trial.

C. EARLY NEUTRAL EVALUATION: A neutral evaluator is hired by the parties to give an evaluation of the case to help settle it. You or your attorney will be permitted to prepare a written statement, present critical witnesses or other evidence, argue your case to the evaluator, meet separately and confidentially with the evaluator, and utilize the evaluator to communicate any settlement offers to the opposing party.

D. PRIVATE SETTLEMENT CONFERENCE: A voluntary settlement conference is similar to early neutral evaluation in that the parties employ a neutral settlement officer who attempts to persuade the parties to accept a compromise position. It is a form of facilitated negotiation in which the settlement officer may express an opinion about the value of the case, the substantive merits of each party's position, and the probable outcome of the trial.

There are various other methods or combinations of methods of ADR, such as summary jury trial, mini-trial, special master and discovery referee. The court encourages the parties to be creative in selecting the process which has the best chance of resolving the case as quickly, effectively, and inexpensively as possible. You will have a chance to review your ADR options at the time of the Early Mediation and Case Management Conference.

The undersigned party is willing to agree to any of the following forms of ADR at this time (for family law and probate actions only). Your selection will inform the other parties in the case of your current thoughts regarding the use of ADR. If all parties agree on a particular ADR method, you will be asked to file a stipulation on the court's form. The stipulation form (Sonoma County Superior Court form #MISC-101) can be found at the court's web site and is available at the court.)

- | | |
|----------------------------------------------------------|------------------------------------------------------|
| <input type="checkbox"/> Mediation | <input type="checkbox"/> Early Neutral Evaluation |
| <input type="checkbox"/> Non-binding Private Arbitration | <input type="checkbox"/> Binding Private Arbitration |
| <input type="checkbox"/> Voluntary Settlement Conference | <input type="checkbox"/> Summary Jury Trial |
| <input type="checkbox"/> Other _____ | <input type="checkbox"/> Judicial Arbitration |

I / We certify that I / We have read and understood (or have had explained to me / us) the foregoing.

Date: _____

Signature of Party

Date: _____

Signature of Party

Date: _____

Signature of Attorney for Party

☐ Additional signatures are attached

NOTE: This form requires the signatures of the parties and their attorney. All parties must complete, file and serve this form in accordance with Sonoma County Superior Court Rules, Rule 16. See Rule 16.3 for specific filing and service instructions.

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| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address) | | FOR COURT USE ONLY |
| TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____ | | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA 600 ADMINISTRATION DRIVE, ROOM 107-J SANTA ROSA, CALIFORNIA 95403-2878 | | |
| PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____ | | |
| STIPULATION AND ORDER REFERRING MATTER TO ALTERNATIVE DISPUTE RESOLUTION | | CASE NUMBER: _____ |
| (Check one): <input type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less) | | Date: _____ Time: _____ Location: _____ Assigned Judge: _____ |

The parties hereby stipulate to refer the case to the following Alternate Dispute Resolution Process:

- | | |
|------------------------------------------------------|----------------------------------------------------------|
| <input type="checkbox"/> Mediation | <input type="checkbox"/> Non-binding Private Arbitration |
| <input type="checkbox"/> Binding Private Arbitration | <input type="checkbox"/> Private Settlement Conference |
| <input type="checkbox"/> Early Neutral Evaluation | <input type="checkbox"/> Judicial Arbitration |

The ADR process will be conducted by (name of individual): _____

Provider's Address: _____

Provider's Telephone: _____

Fax: _____

E-mail address: _____

☐ No agreement

The ADR process will be conducted on (date): _____

☐ No agreement☐ The parties have reached agreement as to the payment of fees of ADR provider.☐ The parties have not reached agreement as to the payment of fees of ADR provider.

Type or print name of ☐ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent/Contestant

 (Date and Sign) Attorney or party without
 attorney (Sign in blue ink)

Type or print name of ☐ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent/Contestant

 (Date and Sign) Attorney or party without
 attorney (Sign in blue ink)

☐ Additional signatures are attached

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| PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: | CASE NUMBER: |
|------------------------------------------------|--------------|

ORDER**A REVIEW HEARING IS SCHEDULED AS FOLLOWS:**_____
Date_____
Time

All parties must appear at the Review Hearing. In the event that the case is settled and a dismissal, a notice of settlement or a judgment is filed at least 3 court days before the scheduled Review Hearing, the Review Hearing will be dropped and no one should appear. You must check the phone message at _____ or go to <http://www.SonomaSuperiorCourt.com/tentative/index.html> where the tentative dispositions will be posted the day before you are scheduled to come to court to determine if you must appear.

THE FIRST ATTORNEY OR PARTY LISTED MUST FILE PROOF OF SERVICE OF A COPY OF THIS ORDER ON ALL PARTIES.

Date_____
JUDGE OF THE SUPERIOR COURT

NOTICE

SONOMA COUNTY SUPERIOR COURT CIVIL DIVISION PRO TEM JUDGE PROGRAM

This is to advise that the Civil Division's Pro Tem Judge Program is available to those civil litigants who wish to expedite trial by stipulating to the use of an attorney to serve as Pro Tem Judge. The court maintains a Pro Tem Judge panel, which consists of attorneys sworn by the Court and willing to serve in this capacity. Parties may stipulate to a trial by a Pro Tem Judge of their choice and may inform the Court of such a stipulation by contacting Connie Origer, the Pro Tem Judge Program Coordinator, at (707) 565-6430.

The Program offers three primary benefits to litigants: (1) the date and location of trial can often be scheduled by stipulation of the parties; (2) the trial will take place on the agreed date for trial, thus eliminating the need to trail other cases, and; (3) the trial can be scheduled for full days on a 5 day per week basis, thus shortening the time to try the case. The Program is available for both jury and court trials.

For cases that are tried in 5 days or less (9:00 a.m. to 5:00 p.m., jury or non-jury), the Pro Tem Judge serves at no cost to the parties. For trials that exceed 5 days in length, the parties and the Pro Tem Judge are obliged to agree to a daily fee, not to exceed \$1,200 per day, for each full or partial day of trial beginning with the 6th day of trial. Additionally, the Court will charge the parties \$656.72 for each day of trial for the Clerk and Court Reporter. The Court discourages the use of overtime and will charge an additional cost of \$123.14 for each hour or portion thereof exceeding 8 hours in any day. The parties are also responsible for the payment of jury fees as in any other civil case. Cases in which there are fee waivers are eligible for the Program.

The Court is enthusiastic about this Program and urges all counsel to discuss the availability of the Program and the feasibility of its use with opposing counsel. Counsel must also obtain permission from clients to participation in the Program. To participate in the Program, contact Ms. Origer as soon as possible to discuss trial dates. Ms. Origer will generate and mail all required stipulations and orders with respect to the Program. Parties may obtain additional information on this program by contacting Ms. Origer or by reviewing the court's website at www.sonomasuperiorcourt.com.

Plaintiff is ordered to serve this Notice on all parties and to certify by proof of service filed with the Court that such service has been accomplished within 60 days of the filing of the Complaint.

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| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name & Address): | | FOR COURT USE ONLY |
| Telephone No.: | FAX No.: | |
| ATTORNEY FOR (Name): | Bar No. | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA 600 Administration Drive Santa Rosa, CA 95403 Telephone: (707) 521-6500 | | |
| PLAINTIFF(S)/PETITIONER(S): | | CASE NUMBER: |
| DEFENDANT(S)/RESPONDENT(S): | | |

NOTICE OF SELECTION AS MEDIATOR IN COURT-CONNECTED MEDIATION
 (Sonoma County Superior Court Local Rule 16)

Name of Mediator Selected: _____

PLEASE TAKE NOTICE that the above-referenced matter is subject to Sonoma County Superior Court Local Rule 16 (Rules Applicable to Alternative Dispute Resolution (ADR)). The parties have selected you to serve as the mediator in this matter. Sonoma County Superior Court has a voluntary, market rate mediation program. All mediations conducted in cases covered by Local Rule 16 are court-connected mediations and are subject to the provisions of California Rules of Court, Rules 3.850 et seq. It is your obligation to familiarize yourself with Local Rule 16 and California Rules of Court, Rules 3.850 et seq. before the mediation. **PLEASE NOTE:** you are required to have the parties complete an Attendance Sheet for Court-Program Mediation of Civil Case (Alternative Dispute Resolution) (Judicial Council form ADR-107) in accordance with California Rules of Court Rule 3.860. The form is available at the web site of the California Courts www.courtinfo.ca.gov.

If you are not a member of the Sonoma County Superior Court panel of mediators, in order to serve as mediator in this case, you must complete the acceptance below (see CRC Rule 3.851(a) (2)), sign it in the space provided, and file the completed Notice with your original signature with the Court not less than five days before commencement of the mediation. Please also provide a courtesy copy of the completed and signed Notice to the ADR Program Coordinator, 1450 Guerneville Road, Building G, Santa Rosa, California 95403 or by facsimile transmission to (707) 565-7059.

If you are mediating a case referred to court-connected mediation during calendar year 2007, regardless of the date of the mediation, you are required to complete and return a Mediator's Questionnaire (Sonoma County Superior Court Local form CV-38) within five (5) days after completion or other termination of the mediation. The completed questionnaire may be mailed or faxed to ADR Program Coordinator at the above address or FAX number. The plaintiff should provide the Mediator's Questionnaire to you. The questionnaire is also available on the web site of the Sonoma County Superior Court www.sonomasuperiorcourt.com.

If you have any questions regarding your selection or service as a mediator in this matter or about the Sonoma County Superior Court ADR Program, please feel free to contact the ADR Program Coordinator at (707) 565-7000 or ADR@sonomacourt.org.

MEDIATOR'S ACCEPTANCE

I, _____ (print name) hereby agree to mediate the above-captioned matter subject to the conditions stated in this notice.

Dated: _____

(Mediator's Signature)

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| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA CIVIL DIVISION 600 ADMINISTRATION DRIVE, ROOM 107-J SANTA ROSA, CALIFORNIA 95403-2878 (707) 521-6500 www.sonomasuperiorcourt.com | (FOR COURT USE ONLY) ENDORSED FILED OCT 22 2007 SUPERIOR COURT OF CALIFORNIA COUNTY OF SONOMA |
| NOTICE OF ASSIGNMENT TO ONE JUDGE FOR ALL PURPOSES, NOTICE OF CASE MANAGEMENT CONFERENCE, and ORDER TO SHOW CAUSE <input type="checkbox"/> Collections (see footnote) | Case number: SCV 241706 |

**A COPY OF THIS NOTICE MUST BE SERVED WITH THE SUMMONS AND COMPLAINT
AND WITH ANY CROSS-COMPLAINT**

MARK TANSIL

1. **THIS ACTION IS ASSIGNED TO HON. _____ FOR ALL PURPOSES.**
 Pursuant to California Rules of Court, Rule 2.111(7), the assigned judge's name must appear below the number of the case and the nature of the paper on the first page of each paper presented for filing.

2. A Case Management Conference has been set at the time and place indicated below:

| | | | | | |
|-----------|--------------------------------------------|-------|---------|------------|----|
| Date: | 1450 Guerneville Road | Time: | 9:00 am | Courtroom: | 18 |
| Location: | FEB 25 2008 Santa Rosa, CA 95403 | | | | |

3. No later than 15 calendar days before the date set for the case management conference or review, each party must file a case management statement [Judicial Council form #CM-110] and serve it on all other parties in the case. In lieu of each party's filing a separate case management statement, any two or more parties may file a joint statement.
4. At the conference, counsel for each party and each self-represented party must appear personally or by telephone [California Rules of Court, Rule 3.670(c)(2)]; must be familiar with the case; and must be prepared to discuss and commit to the party's position on the issues listed in California Rules of Court, Rule 3.727.
5. Pre-approved dispositions are recorded three (3) court days prior to the case management conference. These may be obtained by calling (707) 521-6883 or by going to <http://www.sonomasuperiorcourt.com/tentative/index.php>.

ORDER TO SHOW CAUSE

To Plaintiff(s), Cross-complainants, and/or their attorneys of record:

If, on the date shown above, you are not in compliance with timely filing requirements stated in California Rules of Court, Rules 3.110 and/or 3.725, you must then and there show cause why this Court should not impose monetary and/or terminating sanctions.

*** Telephone appearances are not allowed.** Case Management Conferences in Collections cases incorporate a settlement conference. Counsel/parties with settlement authority are required to appear in person.

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| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number and address) TELEPHONE NO. FAX NO. (Optional) E-MAIL ADDRESS (Optional) ATTORNEY FOR (Name). | | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME | | |
| PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: | | |
| CASE MANAGEMENT STATEMENT (Check one): <input type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less) | | CASE NUMBER: |
| A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: Time: Dept.: Div.: Room: Address of court (if different from the address above): | | |

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

- Party or parties (answer one):
 - ☐ This statement is submitted by party (name):
 - ☐ This statement is submitted jointly by parties (names):
- Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)
 - The complaint was filed on (date):
 - ☐ The cross-complaint, if any, was filed on (date):
- Service (to be answered by plaintiffs and cross-complainants only)
 - ☐ All parties named in the complaint and cross-complaint have been served, or have appeared, or have been dismissed.
 - ☐ The following parties named in the complaint or cross-complaint
 - ☐ have not been served (specify names and explain why not):
 - ☐ have been served but have not appeared and have not been dismissed (specify names):
 - ☐ have had a default entered against them (specify names):
 - ☐ The following additional parties may be added (specify names, nature of involvement in case, and the date by which they may be served):
- Description of case
 - Type of case in ☐ complaint ☐ cross-complaint (describe, including causes of action):

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| PLAINTIFF/PETITIONER: | CASE NUMBER: CM-110 |
| DEFENDANT/RESPONDENT: | |

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date (indicate source and amount), estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

☐ (If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request ☐ a jury trial ☐ a nonjury trial (If more than one party, provide the name of each party requesting a jury trial):

6. Trial date

- a. ☐ The trial has been set for (date):
- b. ☐ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):
- c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

- a. ☐ days (specify number):
- b. ☐ hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial ☐ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney:
- b. Firm:
- c. Address:
- d. Telephone number:
- e. Fax number:
- f. E-mail address:
- g. Party represented:

☐ Additional representation is described in Attachment 8.

9. Preference

☐ This case is entitled to preference (specify code section):

10. Alternative Dispute Resolution (ADR)

- a. Counsel ☐ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and has reviewed ADR options with the client.
- b. ☐ All parties have agreed to a form of ADR. ADR will be completed by (date):
- c. ☐ The case has gone to an ADR process (indicate status):

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| PLAINTIFF/PETITIONER: | CASE NUMBER: |
| DEFENDANT/RESPONDENT: | |

10 d. The party or parties are willing to participate in (check all that apply):

- (1) ☐ Mediation
 (2) ☐ Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 3.822)
 (3) ☐ Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 3.822)
 (4) ☐ Binding judicial arbitration
 (5) ☐ Binding private arbitration
 (6) ☐ Neutral case evaluation
 (7) ☐ Other (specify):

- e. ☐ This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.
 f. ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
 g. ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court (specify exemption):

11. Settlement conference

- ☐ The party or parties are willing to participate in an early settlement conference (specify when):

12. Insurance

- a. ☐ Insurance carrier, if any, for party filing this statement (name):
 b. Reservation of rights: ☐ Yes ☐ No
 c. ☐ Coverage issues will significantly affect resolution of this case (explain):

13. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.

- ☐ Bankruptcy ☐ Other (specify):

Status:

14. Related cases, consolidation, and coordination

- a. ☐ There are companion, underlying, or related cases.
 (1) Name of case:
 (2) Name of court:
 (3) Case number:
 (4) Status:
☐ Additional cases are described in Attachment 14a.
 b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (name party):

15. Bifurcation

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

16. Other motions

- ☐ The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):

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| PLAINTIFF/PETITIONER: | CASE NUMBER: |
| DEFENDANT/RESPONDENT: | |

17. Discovery

- a. ☐ The party or parties have completed all discovery.
- b. ☐ The following discovery will be completed by the date specified (*describe all anticipated discovery*):

| <u>Party</u> | <u>Description</u> | <u>Date</u> |
|--------------|--------------------|-------------|
|--------------|--------------------|-------------|

- c. ☐ The following discovery issues are anticipated (*specify*):

18. Economic Litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

19. Other issues

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

20. Meet and confer

- a. ☐ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (*if not, explain*):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (*specify*):

21. Case management orders

Previous case management orders in this case are (*check one*): ☐ none ☐ attached as Attachment 21.

22. Total number of pages attached (*if any*): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)_____
(SIGNATURE OF PARTY OR ATTORNEY)_____
(TYPE OR PRINT NAME)_____
(SIGNATURE OF PARTY OR ATTORNEY)☐ Additional signatures are attached

CM-110 (Rev. January 1, 2007)

CASE MANAGEMENT STATEMENT

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SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

Atlas Hospitality Group, Hedmark VIII, L.L.C., Westland Financial III,
L.L.C., Justin B. Myers and Does 1-100

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
Douglas Keane

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ENDORSED
FILED

OCT 22 2007

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is.

(El nombre y dirección de la corte es).

Sonoma Co, County Superior Court, 600 Administration Drive, Santa Rosa, CA 95403

CASE NUMBER
(Número del Caso)

241706

The name, address and telephone number of plaintiff's attorney, or plaintiff without an attorney, is.

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado es):
Christopher Keane/Brian Larsen, 530 Jackson St., 2nd Floor, San Francisco, CA 94133 (415) 398-2777

DENISE L. GORDON

DATE
(Fecha) OCT 22 2007

Clerk, by
(Secretario)

KIM MURPHY

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010))

NOTICE TO THE PERSON SERVED: You are served

- 1 ☐ as an individual defendant.
2 ☐ as the person sued under the fictitious name of (specify).

3 ☐ on behalf of (specify): Hedmark VIII, LLC

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)

☒ other (specify): a limited liability corporation

4 ☐ by personal delivery on (date)

Form Adopted for Mandatory Use
Judicial Council of California
S.W. 0001 Rev. January 1, 2004

SUMMONS

Costs of Civil Proceedings §§ 412.20, 465
APPROPRIATE JUDICIAL OFFICE

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EXHIBIT B